IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

CENTURY SURETY COMPANY	)	
	)	
Plaintiff,	)	
v.	)	**Case No. 13-cv-386-C**
	)	
SHAYONA INVESTMENT, LLC.	)	
	)	
Defendant.	)	

DEFENDANT'S FIRST AMENDED COUNTERCLAIM

FRCP 15(a)(1)(b) allows a party to amend its Complaint or Counterclaim within 21 days after service of an FRCP 12(b)(6) motion by the responding party. Plaintiff Century Surety Company filed its FRCP 12(b)(6) motion with this court on May 30, 2013. Defendant Shayona Investment, LLC now amends its Counterclaim and states the following:

(1) Shayona insured the subject property through Century Surety Company.

(2) Shortly after the inception of the policy, the property was vandalized, and Shayona filed a claim with Century, which Century paid.

(3) Not all damage from the vandalism was known to Shayona at the time of loss.

(4) Approximately one year after the claim was filed, Shayona discovered further damage to the bathroom and reported it to Century.

(5) Shayona mitigated its losses by replacing the damaged bathroom components.

(6) Century alleged that this mitigation was evidence of fraud.

(7) In September 2012, Shayona submitted a claim after discovering that hail damage to the roof caused leaking and interior water damage, and Century tendered money towards

that claim.

(8) Century did not pay Shayona for loss of business income related to the September 2012 claim, even though the insurance contract included a loss of business income clause.

(9) Century then filed suit against Shayona, alleging fraud and demanding that Shayona return the money that Century paid on the two claims.

(10) Century breached its insurance contract with Shayona by failing to timely pay the claim but instead accusing Shayona of illegal and nefarious acts, to Shayona's damage.

(11) Century failed to deal fairly and in good faith with Shayona, to Defendant's damage.

WHEREFORE, Shayona prays damages against Century on the contract and for tort damages in an amount in excess of $75,000.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On June __, 2013, I electronically transmitted the attached document to the Clerk of Court using the ECF system for filing. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants: Phil R. Richards at prichards@richardsconnor.com; Brett E. Gray at Bgray@richardsconnor.com; and Randall Jay Lewin at rlewin@richardsconnor.com.

/s/Rex Travis